



NEW REGULATORY REQUIREMENTS CREATED BY THE SEC'S MUNICIPAL ADVISOR RULE

Beginning July 1, 2014, imposes a registration regime upon brokerage firms that give advice to municipal entities on the investment of bond proceeds and escrow funds and imposes a fiduciary duty upon those advisors. By now many public entities have received various letters from their respective broker/dealers explaining the change in regulations and how they will need to separate their funds into non-bond proceed funds and bond proceed funds.

WHAT IS THE DEFINITION OF BOND PROCEEDS AND ESCROW INVESTMENTS?

The Municipal Advisor rules define bond proceeds as "monies derived by a municipal entity from the primary offering of municipal securities, investment income derived from the investment or reinvestment of such monies, and any monies of a municipal entity held in funds under legal documents for the municipal securities that are reasonably expected to be used as security or a source of payment for the payment of the debt service on the municipal securities, including reserves, sinking funds, and pledged funds created for such purpose, and the investment income derived from the investment or reinvestment of monies in such funds". Comingled funds that combine any combination of bond proceeds with other funds will be considered bond proceeds in its entirety. The term "municipal escrow investments" means proceeds of municipal securities and any other funds of a municipal entity that are deposited in an escrow account to pay the principal of, premium, if any, and interest on one or more issues of municipal securities.

HOW IS THE BROKERAGE INDUSTRY ADJUSTING TO THE RULE?

Many brokerage firms have sent out notices to instruct the public entities to identify which funds have bond proceeds in them. The funds without bond proceeds will most likely continue to be covered by brokers in the traditional manner. Funds that have bond proceeds will be restricted by the Municipal Advisor rule and brokers will be prevented from providing any advice on those funds without being registered as a Municipal Advisor. Many brokers have already sent out letters stating that they will not have their brokers act in the role of a Municipal Advisor and that the advice public entities receive on bond proceeds must come from other sources. Bond proceeds will either have to receive advice from a registered Municipal Advisor or from a Registered Investment Advisor.

GOVERNMENT PORTFOLIO ADVISORS AND BOND PROCEEDS

As an existing client of Government Portfolio Advisors, you do not need to go through the process of segregating your funds because you receive investment advice from a Registered Investment Advisor ("RIA") and do not receive advice from a broker/dealer. The purpose of this new regulation is to continue to move the brokerage industry towards a fiduciary responsibility. Currently broker/dealers when providing advice fall under a "suitability requirement" which assume substantially less liability than a "fiduciary" requirement. As an RIA we are regulated by the SEC with full fiduciary responsibilities that require us to always act in our client's best interest. Forcing broker/dealers to register as a Municipal Advisor when advising on bond proceeds will require them to act with the same fiduciary responsibility.

Please let us know if you would like additional information regarding these new regulations.

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